

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-15-03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening/conditioning services rendered from 9/10/03-10/14/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 9/10/03-10/14/03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 2<sup>nd</sup> day of March 2004.

Regina Cleave  
Medical Dispute Resolution Officer  
Medical Review Division  
RC/rc

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** March 1, 2004

MDR Tracking Number: M5-04-1086-01  
IRO Certificate No.: 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

#### **Clinical History**

It appears the claimant suffered a slip and fall injury while at work on \_\_\_, which resulted in his right elbow striking the rung of a ladder. The claimant reportedly suffered a radial neck fracture and this was

surgically repaired on 1/29/03. The claimant was employed with \_\_\_\_ at the time of the injury and had been at \_\_\_\_ for approximately one year prior to the injury. The diagnosis has been listed to be specifically at the right elbow. There appear to be no other injuries sustained.

The claimant has not reported any type of neurological complaints and some upper extremity electrodiagnostic studies have been normal. The claimant did undergo an MRI of the right elbow on 3/26/03 and this reportedly showed some distention of the joint capsule due to effusion. The surgical procedure on 1/29/03 resulted in only the removal of a small articular loose body. It was documented to be a non-complicated surgery. The claimant has undergone extensive amounts of postoperative rehabilitation including multiple weeks of work hardening.

### **Requested Service(s)**

The medical necessity of the outpatient services including work hardening/conditioning from 9/10/03 through 10/14/03.

### **Decision**

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

### **Rationale/Basis for Decision**

The documentation revealed the claimant sustained a nondisplaced radial neck fracture at the right elbow which required a non-complicated surgery on 1/29/03. This surgery was for the purpose of the simple removal of a small articular loose body. The physical therapy in the post operative setting has been extensive and has included work hardening which would not be appropriate given the scope, nature and extent of the injury. A majority of the work hardening program for this healthy well conditioning 19 year old male who demonstrated "excellent" cardiovascular conditioning as of 8/5/03 consisted of cervical and lumbar spine stretches, proprioceptive exercises, calf stretches, shoulder exercises, quadriceps exercises and abdominal exercises. This is simply not appropriate given the elbow diagnosis and subsequent non-complicated surgery. The elbow injury would not cause the claimant's whole body to become deconditioned. I fail to see how a work hardening program could possibly benefit a chronic elbow inflammation problem as inflammation was documented to be present on the 3/26/03 MRI. I fail to see how a work hardening program could possibly influence this particular condition in any way. It is also very clear the claimant did not progress at all via the non-necessary work hardening program. As of 9/9/03 prior to the disputed dates of service the claimant's pain level was listed to be a 6/10 and he reported a 20% overall improvement in his condition. On 11/4/03 the exact same findings and complaints were found specifically that the claimant's pain level was still a 6/10 and he rated himself to be 20% overall improved. In fact it was stated on 11/4/03 that the claimant perceived his condition as "getting worse". An FCE of 8/5/03, well before the program, revealed the claimant to be functioning at the medium duty level and an FCE of 11/4/03, after the disputed dates of service, revealed the claimant to be functioning at the light duty level. This would represent a digression in the claimant's condition. There was also evidence that the claimant was noncompliant with much of his program. The claimant's grip strength was essentially the same as of 4/1/03 as it was on 8/5/03. The claimant expressed a vocational goal to go to truck driving school. The fact that this particular facility was CARF accredited is not a sufficient justification and rationale for being reimbursed for work hardening program services. The services must still be medically necessary and appropriate for the nature and extent of the injury. Obviously the postoperative rehabilitation and work hardening program has been extensive and has represented overkill for the nature and extent of the injury and was not at all reasonable or medically necessary.